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7 Attorneys for Plaintiff
UNITED STATES OF AMERICA

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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,) Criminal Case No. 08CR0724-WQH
12 Plaintiff,)
13 v.) **STIPULATION OF FACT AND JOINT**
14 JOSE ELIAS CAMACHO-MELENDEZ,) **MOTION FOR RELEASE OF**
15 Defendant.) **MATERIAL WITNESS(ES) AND**
16) **ORDER THEREON**

17 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Lawrence
19 A. Casper, Assistant United States Attorney, and defendant JOSE ELIAS CAMACHO-
20 MELENDEZ, by and through and with the advice and consent of defense counsel, Kasha K.
21 Pollreis, Federal Defenders of San Diego, Inc., that:

22 1. Defendant has knowingly, intelligently and voluntarily entered into this stipulation
23 and agrees to participate in a full and complete inquiry by the Court to confirm that it has been
24 knowingly, intelligently and voluntarily entered.

25 2. Each of the material witnesses, Angelica Reyes-Valencia and Audelia Torres-
26 Gutierrez, in this case:

- 27 a. Is an alien with no lawful right to enter or remain in the United States;
28 b. Entered or attempted to enter the United States illegally on or about February
27, 2008;

MW & ARE NOT IN CUSTODY

1 c. Was found in a vehicle driven by defendant at the Calexico, California West
2 Port of Entry (POE) and that defendant knew or acted in reckless disregard of the fact teach material
3 witness was an alien with no lawful right to enter or remain in the United States;

4 d. Was having others pay on her behalf \$4,500 to be brought into the United
5 States illegally and/or transported illegally to her destination therein; and,

6 e. May be released and remanded immediately to the Department of Homeland
7 Security for return to her country of origin.

8 2. After the material witnesses are ordered released by the Court pursuant to this
9 stipulation and joint motion, if defendant withdraws his guilty plea or does not plead guilty to the
10 charge set forth above, for any reason, defendant agrees that in any proceeding, including, but not
11 limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

12 a. The stipulated facts set forth in paragraph 1 above shall be admitted as
13 substantive evidence;

14 b. The United States may elicit hearsay testimony from arresting agents
15 regarding any statements made by the material witnesses provided in discovery, and such testimony
16 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against
17 interest of (an) unavailable witness(es); and,

18 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
19 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
20 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
21 waives the right to confront and cross-examine the material witness(es) in this case.

22 3. By signing this stipulation and joint motion, defendant certifies that defendant has
23 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
24 further that defendant has discussed the terms of this stipulation and joint motion with defense
25 counsel and fully understands its meaning and effect.

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28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
U.S. v. Jose Elias Camacho-Melendez

1 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
2 immediate release and remand of the above-named material witness(es) to the Department of
3 Homeland Security for return to their country of origin.

4 It is STIPULATED AND AGREED this date.

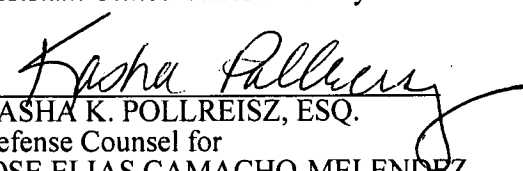
5 Respectfully submitted,

6 KAREN P. HEWITT
United States Attorney

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8 Dated: 6/11/08


LAWRENCE A. CASPER
Assistant United States Attorney

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10 Dated: 6/10/08


KASHA K. POLLREISZ, ESQ.
Defense Counsel for
JOSE ELIAS CAMACHO-MELENDEZ

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12
13 Dated: 6/10/08


JOSE ELIAS CAMACHO-MELENDEZ
Defendant

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28 Stipulation of Fact and Joint Motion for Release of
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ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 6/13/2008

